

did not find the lump on his head. The evidence of all the other witnesses was consistent with either theory; and the plaintiff's story might be viewed with a good deal of suspicion. It was not necessary to deal with the case upon this ground, as the necessary notice was not given within the time limited by the Workmen's Compensation for Injuries Act. The action failed at common law, as the utmost that could be said was, that there was negligence of a fellow-workman. The learned Judge was rather inclined to think that the negligence was that of the plaintiff himself, in failing to see that the face of the wall of the pit was kept in a proper condition. The plaintiff was to be congratulated on having made an excellent recovery. He lost two months' work, and had now a scar upon his forehead. In no possible aspect of the case could he have been expected to recover very heavy damages, and the action ought not to have been brought in the Supreme Court of Ontario. The action failed, but, under all the surrounding circumstances, it should be dismissed without costs. E. G. Porter, K.C., for the plaintiff. Stewart Mason, K.C., for the defendant corporation.

BAGWELL V. TORONTO GENERAL TRUSTS CORPORATION—LENNOX, J., IN CHAMBERS—DEC. 23.

*Jury Notice—Application to Strike out—Adjournment to be Heard by Trial Judge.*—Motion by the defendants, the executors of a deceased person, for an order setting aside a jury notice filed and served by the plaintiff. The action was brought to recover compensation for services alleged to have been rendered by the plaintiff to the deceased. LENNOX, J., said that he felt no difficulty in deciding how the action should be tried, but he was also convinced that the Judge before whom the case should come for trial would be in a still better position to decide as to the best mode of trial. Where it can be done without inconvenience, it is better to leave the question of the mode of trial to the trial Judge. Application adjourned before the trial Judge, who will also dispose of the costs. G. M. Willoughby, for the defendants. H. Arrell, for the plaintiff.